

REMARKS

This application has been carefully reviewed in light of the Office Action dated June 14, 2011. Claims 1-53 are currently in the application, with claim 45 having been withdrawn from consideration. Claims 1, 38, 39, 41, 43, 46-48, and 52 are the independent claims currently under consideration. Reconsideration and further examination are respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claims 1-44 and 46-53 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Appl. Publ. No. 2007/0267486 ("Ferrara"). Applicants respectfully traverse this rejection.

Initially, Applicants note that Ferrara was filed on May 16, 2007 and claims priority to U.S. Provisional Patent Application No. 60/800,964, which was filed on May 17, 2006. The subject application was filed as International Application No. PCT/GB2004/003537 on August 17, 2004. Accordingly, Ferrara does not qualify as prior art under 35 U.S.C. § 102(e) thereby rendering the rejection moot. Withdrawal of the § 102(e) rejection is respectfully requested.

Applicants further note that the Detailed Action portion of the Office Action only recites the elements of originally filed claim 1, which does not include the amendments made in the January 21, 2011 Amendment. With the exception of citing paragraphs 18 and 19 of Ferrara, the Detailed Action fails to provide any reasoning supporting the § 102(e) rejection of the claims and is completely silent with respect to claims 2-44 and 46-53.

In view of the foregoing deficiencies, Applicants' undersigned representative contacted Examiner Franklin by telephone on August 19, 2011, regarding the deficient Office Action. Examiner Franklin acknowledged that the Office Action was incomplete and agreed to issue a new Office Action. After several subsequent telephone calls with Examiner Franklin, a courtesy copy of a new Office Action was faxed to the undersigned on December 12, 2011. However, to

date Applicants have not received a formal copy of the new Office Action having a new mailing date and confirming that the period for reply has been reset. Out of an abundance of caution and in an effort to avoid abandonment of the subject application, Applicants file this response.

Should the new Office Action be formally issued by the Patent Office prior to the processing of this paper, Applicants respectfully request that this paper be disregarded and any extension fees be refunded to the Deposit Account indicated below.

Conclusion

The absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be other reasons for patentability of any or all claims that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation.

In view of the foregoing remarks, the claims currently under consideration are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

Application No.: 10/589,921

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

/Andrew D. Mickelsen/

Andrew D. Mickelsen
Registration No. 50,957

18191 Von Karman Ave., Suite 500
Irvine, CA 92612-7108
Phone: 949.851.0633
Facsimile: 949.851.9348 ADM:af
Date: December 14, 2011

**Please recognize our Customer No. 31824
as our correspondence address.**

DM_US 31041175-1.086887.0035